

Application No.: 08/444,790

Docket No.: 01017/40451B

REMARKS**I. Preliminary Remarks**

Applicants thank Examiner Murphy for the courtesy of the interview kindly granted on September 20, 2005 to Applicant's attorneys Li-Hsien-Rin-Laures, Sharon Sintich and Rosemary Sweeney. During the interview, Applicants discussed the new claims presented herein, the outstanding rejections and the information disclosure statement to be submitted.

II. Basis and Support for Claims Amendments

In the foregoing amendment, new claims 119-137 are directed to further exemplary embodiments of the invention. These amendments do not add new matter to the application.

Claims 123, 124, 132, and 133 are directed to proteins comprising the constant region of a human immunoglobulin heavy chain consisting essentially of the immunoglobulin amino acid sequence encoded by pCD4Hy1 vector or pCH4-Hy3 vector. These vectors were deposited at Deutschen Sammlung von Mikroorganismen und Zellkulturen GmbH (DSMZ) in Braunschweig, FRG, which is an acceptable international depositary authority recognized under the Budapest Treaty (see MPEP § 2405). These vectors are described in the specification at page 17, lines 25-31.

Claims 114 and 137 is amended to be directed to a pharmaceutical composition. Pharmaceutical compositions comprising a TNF binding protein or a fragment thereof are supported at page 12, lines 10-21 and page 20, lines 12-25 of the specification.

Claim 128, 134, and 135 recite fragments of the p75 TNF receptor that are specifically identified as the peptides taught in the specification, *e.g.*, at page 7, line 34 (peptide IIB, VFCT), page 8, lines 5-6 (peptide IID, LPAEVAFXPYAPEPGSTC) and page 8, line 8 (peptide IIF, LCAP).

Claims 120, 126, 130 and 134 are directed to recombinant proteins produced by CHO cells, which are supported at page 17, line 1 of the specification. Claims 119, 125, 129 and 136 are directed to proteins that are purified, which are supported, *e.g.*, at page 6, lines 1-29 of the specification.

Application No.: 08/444,790

Docket No.: 01017/40451B

III. Double Patenting Rejection

The Examiner rejected claims 62-63, 65-71, 75-77 and 100-118 under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 5,610,279. The claims in U.S. Patent No. 5,610,279 are drawn to recombinant proteins encoded by a polynucleotide sequence that encodes a soluble fragment of an insoluble TNF receptor having an apparent molecular weight of about 55 kD. The pending claims are amended to delete reference to an insoluble TNF receptor having an apparent molecular weight of 55 kD. Therefore, in view of the foregoing amendment, the double patenting rejection is moot, and Applicants respectfully request withdrawal of the rejection.

IV. The Rejection under 35 U.S.C. § 112, Second Paragraph should be Withdrawn.

Claims 62-63, 65-71, 75-77 and 100-118 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite because the term "specifically" is not defined by the claim.

Applicants respectfully submit that one of ordinary skill in the art would have clearly understood the meaning of the term "specifically" after reading the specification. For example, Example 1 (page 21, lines 6-22) notes that the desired TNF binding proteins have specific TNF binding activity and discusses an exemplary assay for determining specific TNF binding activity. Thus, the term "specifically" is not indefinite. Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

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Docket No.: 01017/40451B


CONCLUSION

Applicants believe all pending claims are in condition for allowance. If further discussion or amendments would expedite allowance of the claims, the Examiner is asked to contact the undersigned at the number below.

This response is timely filed with a petition and fee for three months extension of time. Should the Examiner believe that additional fees are due at this or any other time during the prosecution of this case, he is hereby authorized to charge any fee to Deposit Acct. No. 13-2855 under Order No. 01017/40451B.

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Respectfully submitted,

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